

REMARKS

This Amendment is responsive to the Office Action dated April 1, 2004. In the April 1st Office Action, the Examiner required to withdrawal of the priority claim to U.S. Application No. 09/628,836 ("the '836 Application") and rejected claims 1-21 under 35 U.S.C. §102(f), with the Examiner alleging that Applicant did not invent the claimed subject matter. Applicant respectfully traverses the Examiner's rejection of such claims and offers the following remarks and Declaration of Robert Carmichael in support thereof.

Claims 1-21 have not been amended and remain pending in the application. Applicant respectfully requests reconsideration of the Examiner's rejection. No listing of the claims is provided since the instant Amendment makes no changes to the claims and only amends the Specification. The Specification has been amended in accordance with the Examiner's requirement to remove the priority claim to the '836 Application.

As support for overcoming the current Section 102(f) rejection. Applicant is submitting a Declaration from Applicant Robert Carmichael. The Declaration shows that Mr. Carmichael invented his claimed invention in 1999 and that the claimed invention was on display at Mr. Carmichael's Halcyon booth at the January 2000 DEMA Show. This fact is supported by the January 2001 Affidavit of Joseph Stella of Johnson Outdoors which is attached as an Exhibit to the Carmichael Declaration. Johnson Outdoors is the owner of the '836 Application which is being cited for the Section 102(f) rejection. It is clear from the Stella Affidavit that well before the July 31, 2000 filing date of the '836 Application Mr. Carmichael was displaying his claimed invention at industry trade show.

Despite the then litigation between Mr. Carmichael's company and Johnson Outdoors, there is absolutely no allegation at all in the Stella Affidavit that Applicant Carmichael derived his invention from the alleged invention shown in the '836 Application. Rather, Mr. Stella was attempting to state that his company did not violate the Non-Disclosure Agreement they entered with Mr. Carmichael's company, because Mr. Carmichael's invention was on display at the January 2000 trade show and thus could not be confidential subject matter subject to the Agreement. Though these issues have long been resolved by the parties, the Stella Affidavit (coming from the owner of the cited '836 Application) does show that Applicant invented the claimed invention itself and that Applicant did not derive the claimed invention from Johnson Outdoors.

As also previously made of record and incorporated by reference herein, the settlement agreement between Johnson Outdoors and Applicant called for Johnson Outdoors to amend the inventorship in the '836 Application to add Mr. Carmichael as an inventor. As an alternative method to what was agreed to for correcting inventorship, Johnson Outdoors chose instead to file a continuation application from the '836 Application naming Mr. Carmichael and Mr. Angelini as co-inventors. The continuation application did not add any additional subject matter to the subject matter of the '836 Application. Thus, regardless of the fact that the Patent Office is not allowing Applicant to claim priority to the '836 Application, the settlement agreement between Johnson Outdoors and Applicant's company and Johnson Outdoors subsequent naming of Mr. Carmichael to their continuation application from the '836 Application serve as additional factual support of Johnson Outdoors' acknowledgement that the claimed subject matter in the instant application was not derived by Applicant from the '836 Application.

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Accordingly, in view of the above, Applicant respectfully requests that the Section 102(f) rejection be withdrawn.

Lastly, in response to the Examiner's comments regarding specifically pointing out elements in the claims not present in the '836 application, without limitation, Applicant specifically points out the elements stated in claims 4-11 and 18-20 are not present in the '836 Application.

Applicant has completely responded to the Office Action dated April 1, 2004. Favorable action is respectfully requested.

Any additional charges, including Extensions of Time, please bill our Deposit Account No. 503180.

Respectfully submitted,



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